

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

December 12, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:08OD-146

Oahu

Grant of Term, Non-Exclusive Easement to James Campbell Company, LLC, for  
Encroachment Purpose, Nanakuli, Waianae, Oahu, Tax Map Key (1) 8-9-008:001  
portion.

APPLICANT:

James Campbell Company, LLC, a foreign limited liability corporation, whose mailing  
address is 1001 Kamokila Boulevard, Suite 200, Kapolei, Hawaii 96707.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Nanakuli, Waianae, Oahu identified by Tax Map  
Key: (1) 8-9-008:001 portion as shown on the attached map labeled Exhibit A.

AREA:

The subject encroachment extends approximately 45.5 feet into State land. The exact  
square footage is to be provided by the applicant, and approved by the Department of  
Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation

City & County of Honolulu LUO: P1 (Restricted Preservation).

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Nanakuli Forest Reserve pursuant to Governor's Proclamation dated: June 4, 1913.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair and replace a telecommunications tower, an equipment storage building and related improvements under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

30 years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

CDUP OA-1855 was approved on April 11, 1986.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>  </u>
Registered business name confirmed:	YES <u>X</u>	NO <u>  </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>  </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The applicant requests a grant of easement for encroachment purposes for their existing improvements that currently extends onto an adjoining forestry reserve owned by the State of Hawaii. The applicant is the owner of a parcel of land, TMK number (1) 9-2-005:013 sharing common borders with the State-owned land parcel.

Currently, a telecommunications tower, an equipment storage building and other improvements that exist on the subject parcel were previously constructed under the terms of CDUP OA-1855. The equipment storage building is approximately twenty years of age and consists of approximately fifteen hundred square feet (1,500 square feet) in size while the communications tower includes approximately one hundred thirty feet (130') of height. A portion of the improvements is encroaching onto State-owned land as shown on the attached survey map labeled as Exhibit B.

The applicant chooses to continue the existing use of the subject improvements for telecommunication purposes because telecommunication service providers are currently using the equipment. The exact easement area will be provided by the applicant, after consultation with the Division of Forestry and Wildlife (DOFAW).

Further, DOFAW commented that "the tower is heavily used and it is probably generating significant revenue. We need assurances that the appraisal will adequately address this issue." Staff responds that the easement request will be subject to an appraisal, and note that the improvements at the location are not owned by the State. DOFAW also wants to ensure the location will restore to its "pre-infrastructure natural conditions" should the grantee abandon the area. Staff responds that it is a standard condition for any outgoing lessee/grantee to restore the area to the Department's satisfaction.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The State Historic Preservation Division, Office of Hawaiian affairs, Department of Hawaiian Home Lands and Department of Facilities Maintenance had no comments/objections to the subject request.

Department of Health, Office of Conservation and Coastal Lands, Commission on Water Resources Management, Department of Planning and Permitting, and Board of Water Supply have not responded as of the suspense date.


RECOMMENDATION: That the Board:

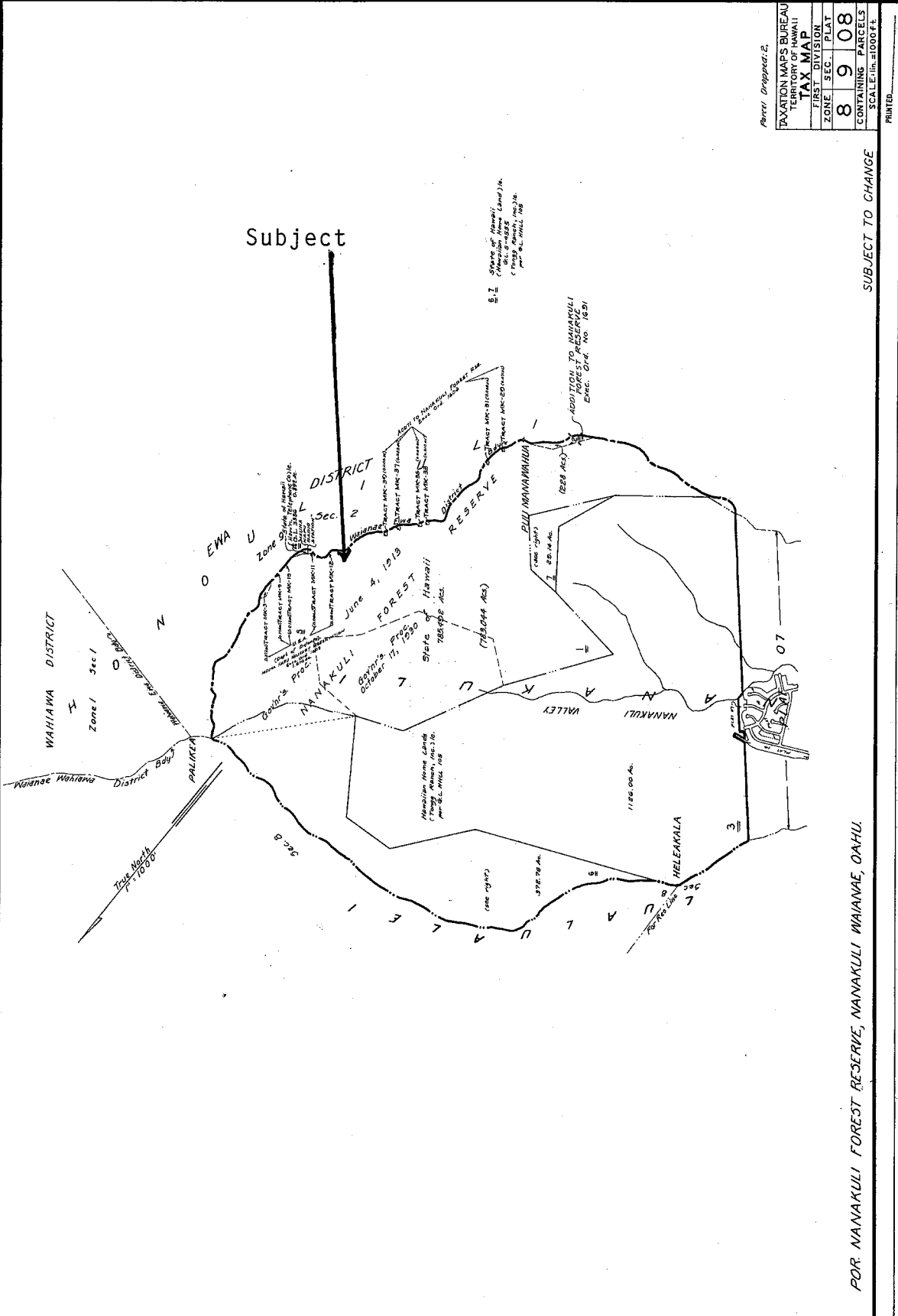
1. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 9-2-005:013, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
2. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a term non-exclusive easement to James Campbell Company, LLC covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
  - B. Terms and conditions of CDUP-OA 1855;
  - C. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key (1) 9-2-005:013, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
  - D. Review and approval by the Department of the Attorney General; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
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Timothy Chee  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson



Parcel Dropped: 2.

TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FIRST DIVISION	ZONE	SEC.	PLAT
8	9	08	
CONTAINING PARCELS			
SCALE 1 in. = 1000 ft.			

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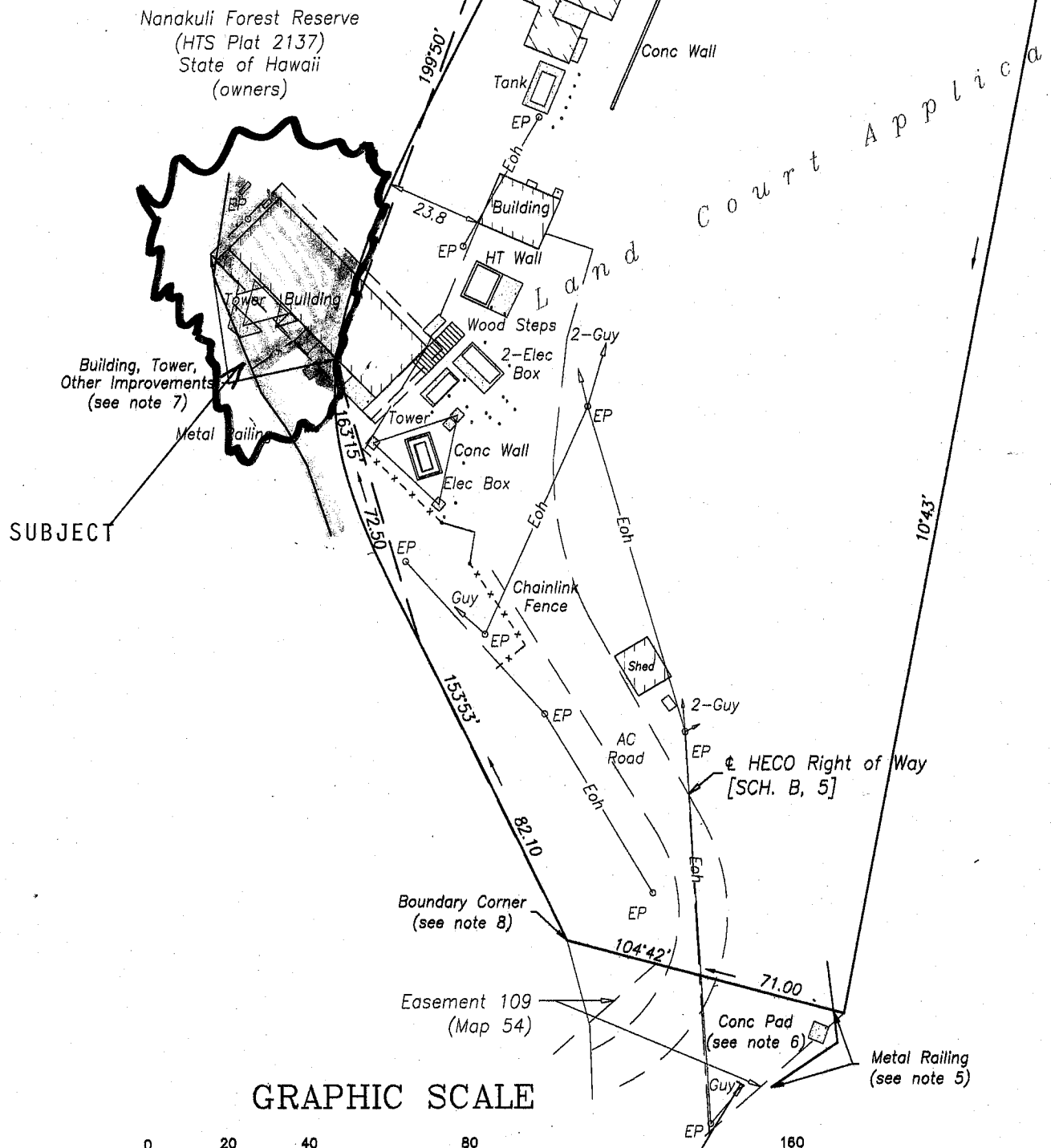
SUBJECT TO CHANGE

8 9 06  
BY  
SIC

3518  
U.S.G.S. Survey Dept. T.M.B.  
H.N.T.G.M. Nov. 1937

EXHIBIT "A"

TS-TOP STEM  
 UE-UNDERGROUND ELECTRICAL  
 VH-VALVE HANDLE  
 WM-WATER METER  
 WMH-WATER MANHOLE  
 WV-WATER VALVE  
 WVHH-WATER VALVE HAND HOLE



# GRAPHIC SCALE



( IN FEET )  
 1 inch = 40 ft.